

Rye City Planning Commission Minutes

June 25,2001

PRESENT:

Michael W. Klemens, Chairman
Peter Larr, Vice Chairman
Brian Spillane
Philip DeCaro
Lawrence H. Lehman
Doug McKean

ABSENT:

Joseph P. Cox

ALSO PRESENT:

Christian K. Miller, AICP, City Planner
Dennis Buckley, Conservation Commission/Advisory Council
J. Henry Neale, Corporation Counsel
Chantal Detlefs, City Naturalist

Chairman Klemens called the regular meeting to order in the Council Hearing Room of the City Hall and a quorum was present to conduct official business.

Executive Session

On a motion made by Chairman Klemens, seconded by Philip DeCaro and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane, Lawrence H. Lehman, Douglas McKean

NAYS: None

ABSTAIN: None

ABSENT: Joseph P. Cox

the Planning Commission took the following action:

ACTION: The Planning Commission approved a motion to convene in executive session to review and discuss pending legal matters.

The executive session was conducted and the Commission unanimously adopted a motion to conclude the executive session and continue with the regular meeting.

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II. HEARINGS

1. 22 Park Lane

Chairman Klemens began by reading the public notice and opening the public hearing held in connection with the Wetland Permit application. The Chairman noted that the application involves a Type II Action and is therefore not subject to the requirements of SEQRA.

Mr. Gordon Avery (property owner and applicant) indicated that the application involves a request to maintain an existing wall within a 100-foot wetland buffer, which was constructed without Planning Commission approval and received a notice of violation from the City Building Department.

There were no comments from the public or the Planning Commission.

On a motion made by Chairman Klemens, seconded by Brian Spillane and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane, Lawrence H. Lehman, Douglas McKean

NAYS: None

ABSTAIN: None

ABSENT: Joseph P. Cox

the Planning Commission took the following action:

ACTION: The Planning Commission closed the public hearing.

II. ITEMS PENDING ACTION

1. 22 Park Lane

The Commission noted that it had conducted a site inspection of the property and reviewed the application in light of the standards for permit decisions provided in §195-5.D of the Rye City Code. In its review the Commission noted the following:

- The stone wall is located in a 100-year floodplain and immediately adjacent to a designated floodway. The stone wall constitutes filling in a flood prone area and is

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not permitted by Chapter 100 of the Rye City Code. Even with proposed modifications in the design of the wall to accommodate flood waters, the wall would adversely impact flood flows, flood storage and create potential storm barriers during flooding events.

- The stone wall would create a potential hazard during flooding and contribute to flood losses to the applicant, subsequent purchasers of the land and neighboring properties.
- The stone wall is not consistent with Federal, State, and County comprehensive land use plans and regulations, including the Chapter 100 of the Code of the City of Rye, the goals and objectives related to flooding identified in the Rye City Development Plan and Chapter 73 and the Rye Local Waterfront Revitalization Program and the Federal Flood Insurance Rate Program.
- Reasonable alternatives to the stone wall exist that meet the applicant's objectives and minimize impacts on the wetland buffer functions. In particular, a picket fence or similar structure could be provided to delineate the applicant's property while also minimizing impacts on flood flows and not resulting in the creation of potential flood hazards.

Mr. Avery responded by noting that a stone wall best protected his property from damage caused by vehicles parking and people congregating at the end of Park Lane. He noted that such damage has occurred in the past and that a picket fence would not provide adequate protection from such disturbances. Mr. Avery also indicated that he revised the plan in response to the Commission concerns regarding impacts on flood flows.

While sympathetic to Mr. Avery's concerns, the Commission noted that it was bound by the standards for permit decisions under the Rye City Code and that reasonable alternatives to the proposed action were available. It was further noted that the Conservation Commission/Advisory Council also recommended removal of the wall given potential impacts on flooding. The Commission recommended that if such parking violations and property damage continue that he contact the police.

It was the consensus of the Commission that the application be denied, but that the applicant was entitled re-submit a new application under the same wetland permit number, without prejudice, that includes a picket fence or similar structure along the front property line that does not adversely impact flood flows or wetland buffer functions. No additional fee shall be charged to the applicant.

On a motion made by Chairman Klemens, seconded by Brian Spillane and carried by the following vote:

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AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane, Lawrence H. Lehman, Douglas McKean

NAYS: None

ABSTAIN: None

ABSENT: Joseph P. Cox

the Planning Commission took the following action:

ACTION: The Planning Commission adopted a resolution of denial of the wetland permit application #WP90.

2. Mathas

Paul Jaehnig (wetland consultant for applicant) provided an overview of the application and the wetland mitigation plan. The application involves a wetland permit to construct a hot tub, patio, security fence and paving of a driveway within a 100-foot wetland buffer. The hot tub and patio were substantially completed prior to receiving wetland permit approval from the Commission.

Mr. Jaehnig noted that the mitigation plan provides a current as-built survey of the property including existing topography. He noted the location of a berm and Blind Brook located immediately off-site in the rear of the property. The existing hot tub would be in excess of 45 feet from the edge of the brook. The amount of driveway paving in the wetland buffer is 480 square feet. As mitigation for these impacts, Mr. Jaehnig proposed 45 shrubs on a slope the brook side of an existing wall on the rear of the property.

The Commission noted concern with the stability of the slope on the rear of the property, particularly its potential for erosion or wash-out into Blind Brook during storm events. The Commission requested that the plan be revised to provide more plants along this slope and that the species of the plants be modified. If this additional mitigation was not provided the Commission indicated that the applicant would be required to submit an engineering report demonstrating the stability and erosion potential of this slope. Ted Mathas (property owner) agreed to provide the additional vegetation, in lieu of the report.

The Commission also discussed the runoff generated by the driveway paving. Mr. Mathas noted that the driveway was substantially complete except for the final asphalt paving. The Commission requested that a dry well be added to the plan to accommodate the stormwater runoff from the driveway. Other Commission members suggested that a pervious material be used for the driveway, such as gravel.

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The Commission further requested that the area between the rear property line and the stone wall be placed in a conservation easement. Mr. Jaehnig suggested that such a condition was not necessary since the notes on the wetland mitigation plan indicate that the applicant will not use herbicide, pesticide or other chemical applications on the property and that a "No-Mow" area will be maintained between the rear property line and the stone wall. Mr. Mathas further stated that the restriction was excessive given the nature of activities requiring a wetland buffer permit, the extent of mitigation measures proposed and the impact such a restriction could have on the value of his property. The Commission agreed not to impose a requirement for a deed restriction.

The Commission requested that the application form be revised to eliminate references to the setback of certain structures from the edge of the wetland on the property. The Commission noted that such references are misleading since they do not account for the prior wetland filling activities that occurred on the property.

The Commission requested that the detail on the plan for the hot tub enclosure be revised so the wall and fence were flush, thereby prohibiting children from climbing over the enclosure.

ACTION: The Commission set a public hearing on the wetlands permit application for its next meeting on July 17, 2001 and requested that the City Planner prepare a resolution of approval for its consideration at that meeting.

3. Killian

William Broderick (applicant's engineer) provided an overview of the application involving wetland violations for the construction of a wall and installation of fill within a wetland and wetland buffer.

The Commission noted that the applicant must submit a wetland restoration plan that eliminates the wall and fill from the wetland and that such restoration should replace lost functions by a ratio of 2 to 1. The Commission noted that it rarely permits the filling of wetlands.

The Commission questioned Mr. Broderick regarding the proposed drainage system near the wetland and whether the conveyance of stormwater to the wetland would aggravate flooding conditions on the neighboring property. Mr. Broderick indicated that the system of catch basins and pipes also included drywells and as a result will reduce off-site stormwater impacts. He also noted that this portion of property includes drainage from the abutting neighbor and Manursing Avenue.

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The Commission noted confusion with the plan since it lacked invert elevations for the drywells. Mr. Broderick indicated that it was due to the limited information made available to the site surveyor. The Commission requested that the drainage system be removed since it was a structure located in the wetland and wetland buffer.

The Commission briefly explained for the benefit of property owners the City's Wetland Law, approval process and findings the Commission must make to approve a wetland permit.

The Commission discussed various restoration and mitigation options for the property. It was the consensus of the Commission that the restoration plan should include the removal of wetland fill and the installation of plant material at the edge of the wetland. The Commission would approve a mitigation compensation ratio of less than 2 to 1 if the applicant demonstrated a significant enhancement in wetland permit functions. The Commission was not opposed to a small wire fence around the mitigation area for child safety.

ACTION: The Commission requested the applicant to prepare a wetland mitigation plan for its review and consideration.

4. Yamada

Mr. Eric Jacobson (applicant's consultant) briefly presented the application, which involves the construction of a 600 square-foot addition to an existing residence and a 195 square-foot new wood deck within a 100-foot wetland buffer.

The Commission requested that the applicant prepare a wetland mitigation plan for the impact to the wetland buffer. The plan should include a table showing the extent of wetland buffer loss. The Commission conceptually preferred a wetland mitigation strategy including appropriate vegetation that provides enhanced stream bank stabilization.

Mr. Jacobson clarified a contradiction between the application form and the plan. The applicant is not proposing to provide a drywell to collect roof runoff since no gutters are provided on the residence or the addition.

ACTION: The Commission requested the applicant to prepare a wetland mitigation plan for its review and consideration.

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The Planning Commission reviewed the draft minutes of its June 19, 2001 meeting.

On a motion made by Chairman Klemens, seconded by Brian Spillane and carried by the following vote:

AYES: Michael W. Klemens, Peter Larr, Philip DeCaro, Brian Spillane, Lawrence H. Lehman, Douglas McKean
NAYS: None
ABSTAIN: None
ABSENT: Joseph P. Cox

the Planning Commission took the following action:

ACTION: The Planning Commission adopted the minutes of its June 19, 2001 meeting subject to minor revisions.

III. Miscellaneous Items

1. Anticipated Absences

Chairman Klemens indicated that he would not attend the Commission's next meeting on July 17, 2001 and that Vice-Chairman Larr will serve as Chairman for that meeting.

2. Informal Reviews

None

3. Other Business

None

4. Correspondence

None

There being no further business the Commission unanimously adopted a motion to adjourn the meeting at approximately 11:00 p.m.

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Christian K. Miller, AICP
City Planner